

Appl. No. 09/913,871
Atty. Docket No. 7440
Amdt. dated September 4, 2003
Reply to Office Action of June 4, 2003
Customer No. 27752

REMARKS

Claims 14-16, 21, 23, 28, 30, 34, 36, 38-51, 53, and 55 are pending in the present application. No additional claims fee is believed to be due.

Claims 1, 17-20, 22, 24-27, 29, 31, 35, 37, 52, and 54 are canceled without prejudice.

Claims 14-16, 21, 23, 39, 40-45, and 48-50 have been amended. Support for the amendment is found at page 6, line 16 – page 7, line 12 of the specification.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Priority

The Office Action states that conditions for obtaining priority have not been met. The Office Action suggests the insertion as the first sentence of the specification information to complete all necessary conditions.

Applicants have amended the specification as suggested by the Office Action.

Rejection Under 35 USC §102 Over US 5,912,218 (Chatterjee et al.)

Claims 1, 14-16, 19-28, 39-42, 45-48, and 50-55 have been rejected under 35 U.S.C. § 102(b) and in the alternative § 102(e) in view of Chatterjee et al.

Applicants submit that as amended, the claimed invention of the present application contains elements not taught by Chatterjee et al. Specifically, Applicants refer to amended Claim 14 requiring a combination of a builder and a low foaming nonionic surfactant having the formula: $R^1(EO)_a(PO)_b(BO)_c$, where c is from 1 to 10. Chatterjee et al. does not teach the use of butoxy capped nonionic surfactants and therefore Applicants request reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(b) and (e).

Rejection Under 35 USC 103(a) Over US 5,912,218 (Chatterjee et al.)

Claims 1-55 have been rejected under 35 USC 103(a) as being unpatentable over Chatterjee et al. Applicants respectfully traverse this rejection as Chatterjee et al. does not establish a *prima facie* case of obviousness because it does not teach or suggest all of Applicants' claim limitations. Chatterjee et al. does not suggest the use of butoxy capped nonionic surfactants

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as required by the claimed invention of the present application. Therefore, Applicants' content that the claimed invention is unobvious and that the rejection should be withdrawn.

Rejection Under 35 USC 103(a) Over WO 99/06466

Claims 1, 14-16, and 19-55 have been rejected under 35 USC 103(a) as being unpatentable over WO 99/06466. Applicants submit that WO 99/06466 is disqualified as prior art as it was subject to an obligation of assignment to the same person. MPEP § 706.02(k). WO 99/06466 was assigned to the Procter & Gamble Company on May 8, 2000, reel 010792 and frame 0680. The present application was filed on August 20, 2001, and therefore was filed after November 29, 1999, the date the exemption applies. In the alternative, Applicants respectfully traverse this rejection as Chatterjee et al. does not establish a *prima facie* case of obviousness because it does not teach or suggest all of Applicants' claim limitations. Chatterjee et al. does not suggest the use of butoxy capped nonionic surfactants as required by the claimed invention of the present application. Therefore, Applicants' content that the claimed invention is unobvious and that the rejection should be withdrawn.

Rejection Under 35 USC 103(a) Over US 6,026,296 (Mertens et al.)

Claims 1-55 have been rejected under 35 USC 103(a) as being unpatentable over Mertens et al. Applicants wish to state that US 6,026,296 was not filed in the name of Mertens et al., however, US 6,020,296 was filed in the name of Mertens et al. Applicants' response is directed to US 6,020,296. Applicants respectfully traverse this rejection as Mertens et al. does not establish a *prima facie* case of obviousness because it does not teach or suggest all of Applicants' claim limitations. Mertens et al. does not suggest the use of a combination of amine oxides, phosphine oxides, sulfoxides, and mixtures thereof with butoxy capped nonionic surfactants (ethoxylated and propoxylated) and one or more of the two other low foaming nonionic defined in the claimed invention of the present application. Therefore, Applicants' content that the claimed invention is unobvious and that the rejection should be withdrawn.

Rejection Under 35 USC 103(a) Over US 5,578,134 (Lentsch et al.)

Claims 1-55 have been rejected under 35 USC 103(a) as being unpatentable over Lentsch et al. Applicants respectfully traverse this rejection as Lentsch et al. does not establish a *prima facie* case of obviousness because it does not teach or suggest all of Applicants' claim limitations. Lentsch et al. teaches a $C_{12-7}(EO)_7(BO)_{1-7}R$ wherein R is a C_{1-6} alkyl moiety, or an alkyl capped nonionic surfactant. Lentsch et al. does not suggest the use of butoxy capped nonionic surfactants

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as required by the claimed invention of the present application. Therefore, Applicants' content that the claimed invention is unobvious and that the rejection should be withdrawn.

Double Patenting

The Office Action has provisionally rejected under the judicially created doctrine of obviousness-type double patenting Claim 1 and 14-55 in view of claims 1-15 of US 5,967,157 and claims 1-17 of US 5,912,218. Applicants respectfully traverse the double patenting rejection as the claimed invention, as amended, contains elements not taught by US 5,967,157 and US 5,912,218. Specifically, Applicants submit that these references do not suggest the use of butoxy capped nonionic surfactants as required by the claimed invention of the present application.

The Office Action further has provisionally rejected under the judicially created doctrine of obviousness-type double patenting Claim 1 and 14-55 in view of claims 11-33 of copending Application No. 09/913870. Applicants submit that if and when patentable subject matter is granted for this case, Applicants will submit a terminal disclaimer over copending Application No. 09/913870.

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Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 U.S.C. §§102 and 103, and judicially created doctrine of obviousness-type double patenting. Early and favorable action in the case is respectfully requested. If, prior to allowance, any outstanding issues exist, Applicants' attorney would welcome the opportunity to resolve such issues via a phone interview.

Applicants have made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, Applicants respectfully request reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 14-16, 21, 23, 28, 30, 34, 36, 38-51, 53, and 55.

Respectfully submitted,

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